



The Latest Legislative and Regulatory Issues from Inside the Beltway

December 14-15, 2010
LWQTC



Presentation Outline

- The 3 hot legislative issues
- 2009 & 2010 regulatory issues
- Regulations for 2011 & beyond
- Looking at future regulatory issues
- Long-term issues

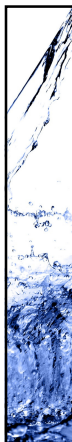




The 3 Hot Legislative Issues


- Sustainable Water Infrastructure
- Chemical Security
- Perchlorate





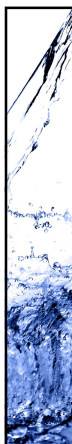
Outlook: The 112th Congress

- Recent elections turned House over to Republicans, narrowed margin in Senate
- New House Speaker is Rep. John Boehner, R-Ohio
 - Third in line to the presidency, after the vice president
- Committee chairs, rosters still being determined
- Party ratios in committees generally reflect overall ratios of the House, Senate
 - So R's to gain seats in committees (a lot in the House), D's to lose seats




Outlook: The 112th Congress

- House Energy & Commerce
 - Battle for chair between Rep. Joe Barton of Texas, Fred Upton of Michigan (Barton seeking waiver of his party's term limit rule)
 - Ranking Democrat will likely be Rep. Henry Waxman of California
- Senate Environment & Public Works
 - Sen. Barbara Boxer of California likely to remain chair
 - Sen. James Inhofe of Oklahoma likely to remain Ranking Republican




Outlook: The 112th Congress

- House Homeland Security
 - Chair likely to be Rep. Peter King of New York
 - Ranking Democrat likely to be Rep. Bennie Thompson of Mississippi
- Senate Homeland Security & Gov. Affairs
 - Sen. Joseph Lieberman of Conn. Chair
 - Sen. Susan Collins of Maine, Ranking Rep.
 - Usually work together well



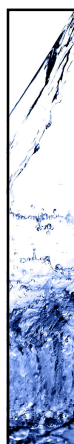
Outlook: The 112th Congress

- **Louisianians in Congress**
 - Bear in mind freshman assignments not made yet
 - Some members will switch committees
- **Right now in the Senate...**
 - Sen. Mary Landrieu (D)
 - Homeland Security, Appropriations
 - Sen. David Vitter (R)
 - Environment & Public Works



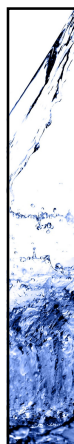
Outlook: The 112th Congress

- **Right now in the House...**
 - Rep. Steve Scalise (R)
 - Energy & Commerce
 - Rep. Charles Melancon (D)
 - Energy & Commerce
 - Rep. Rodney Alexander (R)
 - Appropriations




Outlook: The 112th Congress

- **Drinking water issues in the 112th**
 - With new focus on federal spending, deficit, maintaining existing funding levels for state revolving loan fund program, similar infrastructure programs will be more difficult
 - Expect oversight hearings in the House on EPA rulemakings, including those for water
 - Chemical security legislation will be debated again, but possibility of mandatory “inherently safer technology” being passed is less likely



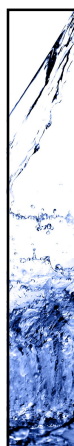
AWWA & the 112th

- **Infrastructure Bank**
 - Understanding of need to invest in water infrastructure is broadly acknowledged
 - AWWA model for a bank is near-revenue neutral, thus broadening appeal in this climate
- **If chemical security legislation moves, will work to see that it makes sense for the water community**
- **Discussions beginning on next Farm Bill**
 - Conservation programs, nutrient loads affect quality of our source waters




AWWA & the 112th

- **Cybersecurity looming as a bigger issue**
 - Will work to see that water community's concerns addressed
- **Appropriations**
 - Will work to protect SRF program, water research
- **Climate change**
 - Unclear where this will go, but adaption to climate change a concern of many utilities




Call for Delegates for 2010 Fly-In!


- **Fly-In will be March 24-25**
- **Announcement sent to Section officers earlier this fall**
- **Sections free to send additional delegates**
- **The best way to develop connections between drinking water providers and Congress**
- **It's lots of fun, too!**



2009 & 2010 Regulatory Issues

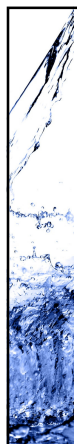
- Notice of data availability (NODA) on proposed geologic sequestration (GS) regulation
- Final third Contaminant Candidate List (CCL3)
- EPA's Drinking Water Strategy
- Second six-year review
- Proposed Revised Total Coliform Rule (RTCR)






Final CCL3

- Draft CCL3 in Feb. 2008—104 contaminants
- Final CCL3 signed on Sept. 21, 2009
 - 104 chemical & 12 microbial contaminants
- Changes between draft and final
 - Two cancelled pesticides removed
 - Nitrofen and ethion
 - One perfluorinated added (PFOS)
 - One antibiotic and nine hormones added
 - Two disinfection by-products added
 - Chlorate and bromochloromethane




Final CCL3 (cont.)

- Final is very close to the draft CCL3
 - 116 on final CCL3 vs. 104 on draft
 - Research needs table added
- How do we use CCL3 to inform UMCR3?
- What will EPA do for its third regulatory determination (RD3)?
 - No new regulations in 1st 2 RDs
 - Need a “win” from the CCL/RD processes
 - What would be the most likely candidate?
Nitrosamines?
 - More to come on regulating contaminants as a group



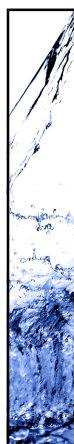
Final CCL3 Leads to UCMR3

- UCMR3 would fill occurrence data gaps in CCL3 for future regulatory determinations
- Similar approach to UCMR1 & 2
- 22 List 1 contaminants
 - Seven hormones
 - 1,4 dioxane
 - Nine volatile organic chemicals (VOCs)
 - Four metals
 - Chlorate
- Six perfluorinated alkyl acids on List 2




2010 – EPA Drinking Water Strategy

- In March 2010, EPA Administrator released a new drinking water strategy:
 1. Address contaminants as groups rather than one at a time;
 2. Promote the use of new technologies for monitoring and treatment;
 3. Leverage the use of existing statutes such as TSCA & FIFRA to protect source; and
 4. Promote easy access to utility monitoring data.




Contaminant Groups

- EPA is in the process of engaging stakeholders and the public to develop approaches to group contaminants, identify treatment technologies, and consider adverse health effects
 - EPA stakeholder meeting on Sept. 21
- Potential groups on next slide
- EPA will decide on at least one group by the end of 2010
 - Proving health risk reduction is only one of the challenges



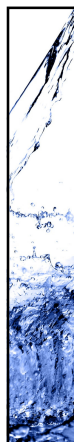
EPA's Initial Groups

- 3 groups ready for consideration
 - Nitrosamines
 - Carcinogenic Volatile Organic Chemicals (VOCs)
 - Chlorinated Disinfection By-Products (DBPs)
- 3 potential groups for future consideration
 - Perfluorinated compounds (PFCs), organophosphates, carbamates
- 3 groups under consideration with issues
 - Triazines, chloroacetanilides, cyanotoxins



Nitrosamines

- Five nitrosamines on CCL3
- Six nitrosamines on UCMR2
 - NDMA - most frequently detected (13,280)
 - 264 (24.6%) systems with detections (1,237 samples)
 - Single digit percentages >10 ng/L & >20 ng/L
 - NDEA and NPYR detected $\pm 2\%$ of systems
- All are carcinogens (zero MCLG)
 - MCL will be based on analytical method or benefit-cost analysis
- Similar to perchlorate
 - Small number of systems impacted
 - But high treatment \$ for those that are



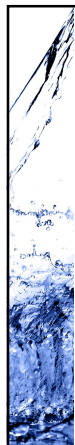
Carcinogenic VOCs

- Eight currently regulated
- Eight on CCL3
 - Limited occurrence data
 - Co-occurrence ??
- Treatment – aeration or GAC
 - Will treatment for currently regulated work for the CCL3 VOCs?



Chlorinated DBPs

- Nine currently regulated
 - TTHM and HAA5
- Hundreds of unregulated DBPs
- EPA is considering increased DBP precursor removal targets or TOC Action Level?
 - How do we continue the risk-risk balancing from paired rulemakings (Stage 1 and 2 DBPRs)??



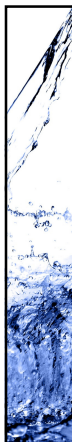
Technologies

- Collaborate with universities, technology developers, and the private sector to develop water- and energy-efficient treatment technologies that reliably reduce health risks
- Showcase field demonstrations of large and small treatment systems that address a broad suite of contaminants




Leveraging Existing Statutes

- Use the existing authorities of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Control Substances Act (TSCA) to ensure future decisions are protective of drinking water
- Use FIFRA registration to generate risk assessments and fill data gaps
- Look for synergies with EPA's chemical actions plans



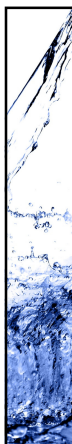
Data Sharing

- **Promote the use of advanced information technology between states and EPA to facilitate data and information exchange**
 - National compilation of monitoring data
- **Share data analysis tools with states to target public health issues**
- **Implement a range of interactive communications between states, utilities, and the consumers for info exchange**



First Six-Year Review of Existing Regulations

- **In 2003, EPA reviewed 69 existing drinking water regulations and decided to only revise the Total Coliform Rule (TCR)**
 - The MCLs for 16 contaminants could potentially have been revised based on new health effects and/or analytical methods data
- **EPA concluded that a revision to the national regulation would not provide "... a meaningful opportunity for risk reduction..."**
 - Not enough systems would have been impacted



First Six-Year Review (cont.)

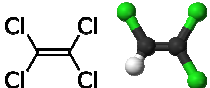
- **New health effects and/or analytical methods data for 16 contaminants**
 - Zero water systems would have been impacted by a potentially lower MCL for eight contaminants
 - One water system would have been impacted for two contaminants
 - A range of systems would have been impacted for six contaminants
 - A more detailed regulatory analysis for five of these six contaminants is on the next slide

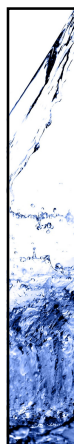
First Six-Year Review (cont.)

Contaminant	MCL (mg/L)	No. of Systems Impacted
Benzene	Current: 0.005 Potential: 0.0004	7 (Current) 80 (Potential)
Beryllium	Current: 0.004 Potential: 0.01 Potential: 0.001	15 2 203
Chromium	Current: 0.1 Potential: 0.07 Potential: 0.05 Potential: 0.02	1 3 7 73
Dichloromethane	Current: 0.005 Proposed: 0.00025	3 1,067
1,2-Dichloropropane	Current: 0.005 Proposed: 0.0004	1 11

From Roberson, March 2005 JAWWA


- ### Second Six-Year Review
- On March 29, 2010, EPA published its review of 71 existing regulations
 - Four standards will be revised
 - Two Volatile Organic Chemicals (VOCs)
 - Trichloroethylene (TCE) & tetrachloroethylene (PCE)
 - Two polymers
 - Acrylamide and epichlorohydrin
 - Schedule for revising these standards is not completely clear
 - But will surely be before 2016 (3rd six-year)

- ### TCE and PCE
- TCE MCL - Phase I VOCs Rule (1987)
 - PCE MCL - Phase II Rule (1991)
 - Both have zero MCLGs – carcinogens
 - MCLs set as close to MCLGs as feasible
 - MCLs were set based on analytical method limitations at that time
 - Both have MCLs of 0.005 mg/L
 - Improved analytical method now justifies lower MCLs
- 



TCE and PCE (cont.)

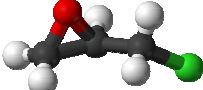
- FR Notice analyzes potential lower MCLs for both
 - 0.0025, 0.001, and 0.0005 mg/L
 - 1/2MCL, 2XEQL, and EQL
 - EPA estimates this range of TCE MCLs will impacts 25 to 388 systems
 - PCE in same range
- Current treatment for compliance is primarily air stripping
 - Granular activated carbon (GAC) can also be used




Acrylamide and Epichlorohydrin

- Treatment technique (TT) requirements were set as part of Phase II Rule in 1991
 - Acrylamide
 - 0.05% dosed at 1 ppm (or equivalent)
 - Epichlorohydrin
 - 0.01% dosed at 20 ppm (or equivalent)

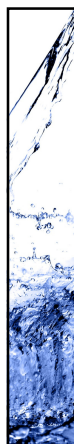
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Acrylamide and Epichlorohydrin (cont.)

- Compliance certification can rely on manufacturers or third parties, as approved by States
- Improved manufacturing the driver for revising the TTs
 - Less residual monomer
- Dosing – manufacturers should state content clearly
 - Accounting for total dose in plant will be an aspect of this rulemaking



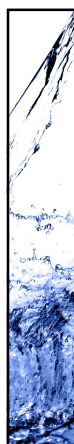
Revised Total Coliform Rule (RTCR)

- Proposed Revised Total Coliform Rule published on July 14, 2010
 - Based on 2008 Agreement in Principle (AIP)
- Total Coliform Rule/Distribution System Advisory Committee (TCRDSAC)
 - States, EPA, utilities, consumer and environmental advocates
 - Met 13 times between July 2007 and September 2008
 - Lots and lots of data analysis through Technical Workgroup (TWG)




RTCR (cont.)

- Shift in focus from monitoring & notification to monitoring that trigger an assessment & potential corrective action(s)
 - No MCLG/MCL for total coliform
 - Total coliform and *E. coli* positives will trigger investigation / assessment
 - Tier 1 self-assessment
 - Tier 2 by outside party or qualified utility staff
- Distribution system research and data collection and analysis needs to be a priority




Seven Priority RICP Topics

- Water Research Foundation and EPA are the two lead organizations
- Tier 1
 - Storage tanks
 - Pressure management and intrusion
 - Main construction and repair
 - Cross connections and backflow
- Tier 2
 - Nitrification
 - Biofilm
 - Contaminant accumulation in pipe scales




Reg. Issues – 2011 & Beyond

- Final geologic sequestration rule (2011)
- Final Revised Total Coliform Rule (2012)
- Long term Lead and Copper Rule (LCR) revisions (2012)
- Regulatory development cycle never stops
 - UMC3 (2012), RD3 (2013), CCL4 (2014)....
 - Note these are final dates – proposals 1-2 years prior
- Second round of LT2ESWTR monitoring starts in 2015
- Third six-year review in 2016
- Stage 3 DBPR???




Long-Term Lead & Copper Rule Revisions

- Several potential issues to address:
 - Lead service line replacement (LSLR) programs
 - What to do about partial LSLR?
 - Changes to flushing guidance and sampling collection following partial LSLR
 - Changes to sample site collection criteria
 - Guidance on new corrosion control treatments
 - Tap sampling issues
 - Pre-stagnation flushing & aerator removal (continue or not?)
 - Maximum stagnation times
 - Consecutive water systems



Three More Contaminants

- Perchlorate
 - Regulatory determination under review by OMB based on “meaningful opportunity”
 - Weight of evidence does not support regulation
- Chromium VI
 - New risk assessment with implication for single digit MCL
 - Some serious issues with studies
- Fluoride
 - MCL will likely go down but not anticipated to impact typical fluoridation practices



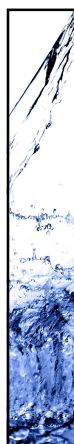
Looking at Future Regulations

- Current regulations have taken the “low-hanging fruit” with clear risk reductions
- Future regulations will be chasing more challenging contaminants with less obvious health benefits
 - This is an opportunity to define “...meaningful risk reduction...” under the SDWA
 - Number of systems and people impacted
 - Relative Source Contribution (RSC) between food and water
 - Effect (NOEL) versus adverse effect (NOAEL)



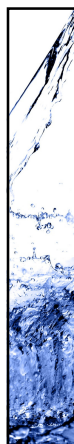
Looking at Future Regulations

- “Fear precedes knowledge”
 - Media and societal pressures can drive science and the reg. process
- Future regulations have the potential to:
 - Become even more complex
 - Shorter compliance timeframe
 - Reproductive/developmental endpoints
 - Get more into operations
 - Especially for the distribution system



Long-Term Issues

- Climate change and water resources
 - Water quantity and water quality
 - Energy / water linkage
- Science policy questions
 - What is “meaningful opportunity for risk reduction”
 - Shift in focus / health endpoint to short-term
 - Potential to get into operations
 - Simultaneous compliance
- Workforce
- AWWA – information overload & knowledge transfer



American Water Works Association

We need your input!

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